SUPREME COURT OF THE UNITED STATES.

No. 133.

JAMES INERARITY, PLAINTIFF IN ERROR,

vs.

THOMAS BYRNE.

IN ERROR TO THE SUPREME COURT OF ALABAMA.

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J. & G. S GIDEON, printers.

UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the honorable judges of the supreme court of the State of Alabama, greeting:

Because, in the record and proceedings, and also in the rendition of the judgment of a plea which is in the said supreme court, before you, being the highest court of law and equity in said State in which a decision could be had, in a suit between James Inerarity and Thomas Byrne, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the constitution, treaties, or laws, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the constitution, or of a treaty, or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said James Inerarity, as by his complaint appears. We being willing that error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, command you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the second Monday of January next, in the said supreme court to be then and there held, that the record and proceedings aforesaid being inspected by the said supreme court, they may cause to be further done therein, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the supreme court, this twentieth day of January, in the year of our Lord one thousand eight hundred and forty-three.

Allowed by HENRY W. COLLIER,
Ch. justice of sup. ct. of Ala.

JAMES INERARITY
vs.
THOMAS BYRNE. } 665.

Be it remembered, that on the 27th day of December, A. D. 1833, there was filed in the office of the clerk of the supreme court of the State of Alabama, a writ of error and transcript of record, in the words and figures following, to wit:

THE STATE OF ALABAMA, *Baldwin county:*

To the clerk of the circuit court of Baldwin county, greeting:

Because in the record, and also in the giving judgment, of the plaint which was lately in the circuit court of said county, between James Inerarity and Thomas Byrne, wherein the said James Inerarity was plaintiff, and the said Thomas Byrne was defendant, in a certain plea of trespass to try titles to land, &c., manifest error hath intervened, to the great damage of the said James Inerarity, as we, from his complaint, are informed. We being willing that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done the parties aforesaid in this behalf, do command, that if judgment thereof be given, then under your seal you do, distinctly and openly, send the record and proceedings of the plaint aforesaid, with all things concerning the same, so that the supreme court of said State may have them on the first Monday of January next at the town of Tuscaloosa, in the aforesaid State, that the record and proceedings aforesaid being inspected, the supreme court may do thereupon, for correcting that error, what of right, and according to the law and custom of the land, ought to be done.

Witness P. C. Byrne, clerk of the circuit court aforesaid, this 26th day of November, 1833.

Attest: P. C. BYRNE,
Clerk cir. ct. B. C.

JAMES INERARITY }
vs.
THOMAS BYRNE. }

Be it remembered, that on the 28th day of October, in the year of our Lord 1830, the plaintiff, James Inerarity, in the above entitled cause, sued out his certain writ against the defendant, Thomas Byrne, aforesaid, in the words and figures following:

The State of Alabama to the sheriff of Baldwin county, greeting:

You are hereby commanded to take the body of Thomas Byrne, if to be found in your county, and him safely keep, so that you have him before the honorable the circuit court to be holden for Baldwin county, at the place of holding said court, on the third Monday of October instant, to answer to James Inerarity in a plea of trespass to try titles, to his damage five thousand dollars.

Herein fail not, and have you then and there this writ.

Witness George W. Wilkins, clerk of said court, this 28th day of October, in the year of our Lord eighteen hundred and thirty.

Issued this 28th day of October, in the year 1830.

Attest: G. W. WILKINS, *Clerk.*

This action is brought to recover possession of a tract of land, called and known by the name of Grand Terre, of which the defendant hath

wrongfully taken possession, and to recover damages for the detention thereof, and also to try titles to the same.

SAMUEL ACRE,
For the plaintiff.

Sheriff's return.

Received 29th October, 1830, and executed 10th day of November, 1830.

JOSEPH HALL, *Sheriff B. C.*

THE STATE OF ALABAMA,
Baldwin county circuit court, term 1830.

James Inerarity complains of Thomas Byrnes, in custody, of a plea of trespass to try titles; for that the said defendant, on the first day of January, in the year of our Lord one thousand eight hundred and thirty, with force and arms, broke into, and entered, a certain tract or parcel of land, lying and being in the county of Baldwin, known by the name and appellation of "Grand Terre," and described as follows, to wit: situate about seven leagues, more or less, from the city of Mobile, north-east; bounded on the north and east by vacant lands, on the south by lands belonging to Medame Boder, and on the east by the Tensas river, containing five thousand and forty arpens, and then and there ejected, expelled, put out, and removed, the said plaintiff from the possession, use, occupation, and enjoyment of the said tract of land, and kept, and continued him so ejected, expelled, put out, and removed, for a long space of time, to wit, from thence, hitherto; whereby the said plaintiff, for and during all that time, lost, and was deprived of, the use and benefit of the said land and premises, to wit, at and in the county of Baldwin aforesaid, and other wrongs to the said defendant then and there did, to the great damage of the said plaintiff, and against the peace of the State; wherefore the said plaintiff saith he is injured, and hath sustained damages to the amount of five thousand dollars; and therefore he brings suit.

SAMUEL ACRE, *Att'y for plff.*

Filed the day of April, 1831.

WM. WILLIAMS.

JAMES INERARITY
vs.
THOMAS BYRNE.

Continued November term, 1833—April term, 1831, continued.

Defendant to pay cost to the present term; and, upon further terms, that plaintiff be permitted to take the deposition of Antoni Hemdenberg, to day, or at any time hereafter, by giving notice, to be read in evidence.

November term, 1831, continued on affidavit of defendant.

April term, 1832, continued on affidavit of defendant, and on payment of the costs of this term.

November term, 1832, continued—no court.

April term, 1833, continued by consent.

It is agreed by the defendant, that the jurors may be others than freeholders, and by the plaintiff, that he will never ask for a change of venue for want of freeholders to compose the jury.

November term, 1833, jury No. 1, verdict for the defendant.

This day came the parties, by their attorneys, and thereupon came a jury of good and lawful men, to wit: Duncan McCall, Thomas Atkinson, Lewis Starke, John Greenwood, Benjamin Davis, Josephus Myles, James L. Seabury, James Conway, William E. Smith, William C. Dennis, Isaiah Randall, and Francis Cypress, who, after being duly elected, tried, and sworn, on their oaths do say: We, the jury, find the defendant not guilty, as charged in the plaintiff's declaration.

It is, therefore, considered by the court now here, that the defendant go hence without day, and recover of and from the plaintiff his costs and charges by him about his suit in this behalf expended. Whereupon, and before the said cause was submitted to the jury, the plaintiff tendered a bill of exceptions; which said bill is in the following words and figures, to wit:

JAMES INERARITY } v. THOMAS BYRNE. } Trespass, &c.

Be it remembered, that, on the trial of this case, the plaintiff offered in evidence, as the first link in his chain of title, the document hereto annexed, written in the Spanish language, purporting to be a complete grant from the Spanish Government for the premises mentioned and set forth in the declaration, to and in the name and style of John Forbes & Co., from whom the said plaintiff proposed and offered evidence to derive title to himself. Whereupon the court decided that the said document, purporting to be a grant as aforesaid, was not in reality a grant, owing to defect of authority and right in the granting power to make the grant aforesaid; and therefore the said grant, admitting it to be so, conveyed no title to said John Forbes & Co., under whom said plaintiff claimed the premises in the declaration mentioned, and that the said grant should not, nor the evidence thereto attached, be read in evidence to the jury; the said grant, in the opinion of the court aforesaid, not having been made by any government having power and authority to make such grant. To which opinion of the court, so expressed in manner aforesaid, excluding the grant aforesaid, the said plaintiff, by his attorney, does except, and tenders this his bill of exceptions, and prays the court to sign and seal the same; which is accordingly done this 20th of November, in the year of our Lord 1833, it being the third day of the term held for the county of Baldwin, in the month of November of the year aforesaid.

[SEAL.] (Signed,) JOHN W. PAUL.

A copy of which said original grant in the Spanish language, referred to in said bill of exceptions and in the record thereof, is as follows, to wit:

[For map, see original.]

Don Vicente Sebastian Pintado, agrimensor general de la Florida Occidental.

Certifico, que por el plano figurativo y diligencia de apeo que con fecha primero de Enero de mil y ochocientos, despachó Don Josef Collins, agrimensor diputado que fué por mi antecesor D'n Carlos Laveau Trudeau, para el distrito de Mobila, consta que fué medido, lindado y amojonado para D'n Juan Linder, un terreno de cinco mil y quarenta arpanes planos, medidos a la percha lineal de la cuidad de Paris, de diez y ocho pies lineales de la misma ciudad, contando cien perchas planas por arpan, segun costumbre geodetica de esta provincia, situato en el dicho distrito y margen oriental del Rio Tensa, en el parage conocido por el nombre vulgar de la grand terre, à siete leguas, poco mas ò menos, al nordeste de la poblacion de la Mobila, lindando por la parte septentrional y oriental con tierras vacantes, por la meridional con tierras de Madame Bodin, y por la occidental confino con el dicho Rio Tensa como mas claramente manafiesta el plano que antecede; en el que và figurado el terreno, anotados las dimensiones de sus lados en perchas lineales de Paris, las direcciones de sus limites segun los bruxules, la declinacion nordeste de esta, los arboles y mojones que sirven de lindero y los demas cotos y confines naturales y artificiales; cuyo plano es copia del original que formio el dicho Collins, que se halla annexo al expediente promovido por Don Juan Forbes, socio de la casa de los Ss'res. Panton, Leslie y Compañia, establecida en esta plaza, q'l sigue ahora bajo la denominacion de casa de D'n Juan Forbes y compag'a, solicitando la ratificacion del titulo de propriedad del mismo terreno à favor de dicha casa por haberlo comprado en veinte y siete de Octobre de mil ochociento tres, en la venta publica que de el se hizo, por fin y muerte del citado Linder, como consta por la diligencia de remate cuya copia autentica se halla unida al mismo expediente, como tambien la de una escritura otorgada por Carlos Lalande en la Mobila, confecha nueve de Diciembre de mil seteciento noventa y seis à favor de D'n Juan Linder, por la qué vendiò el primera, como Manido de Adelayde Durett y tutor de los hermanos menores de esta, el referido terreno, que dicen heredáron de D'n Luis Duret, padre de los dichos, y el que parece fue concedido por el Gobierno Frances à Mad'me de Lusser en veinte y siete de Mayo de mil setecientos treinta y ocho, segun otro documento anexo al citado expediente. Y en virtud de anto proveido en veinte del con'te mes y año por el S'r D'n Juan Vent'a Morales, intend'te general interino de esta provincio y superintendend'te general, subdelegado de Real Hacienda en la misma, Juez de arribadas de tierras y solares realengos,

Pinno

Varillas

Oeste 400 Pertes

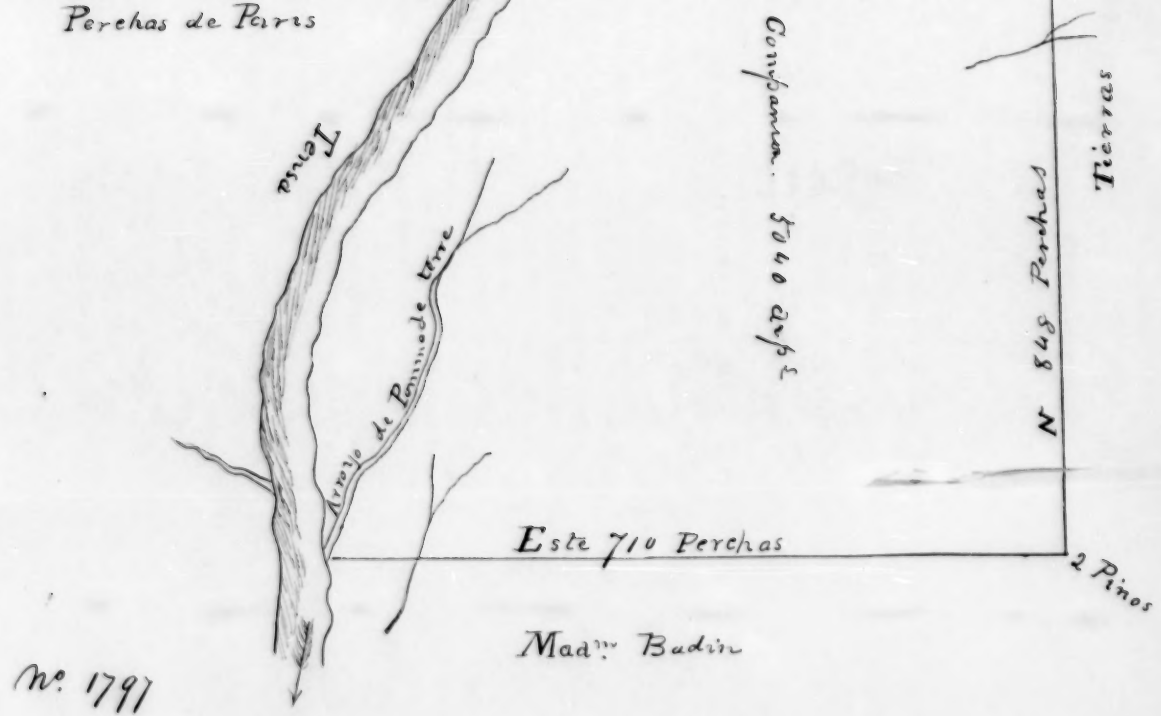
Capre

Los Señ.s Forbes y Co

Rio

Varas

Perchas de Paris



No. 1791

Don Vicente Sebastian Pintado, Agrimensor General de la Florida Occidental.

6.

por el general se manda despachar à favor de los sures. Forbes y Comp'a el titulo que ellos solicitan. Doy la presente para unir à el. En la Plaza de Pansacola à los veinte y seis dias del mes de Febrero de mil ochocientos y siete.

VINCENTE SEBAS'N PINTADO.

Registrado en el Lib. VII, de apeos fol. 20 y 21, No. 1,797. Panzacola, veinte y siete de Febrero de mil ochocientos y siete.

VINCENTE SEBAS'N PINTADO.

Don Juan Ventura Morales, intendente enterino y superintendente general, subdelegado en esta provincia de la Florida Occidental, Juez de arribadas de tierras y solares realingos, &c.

Por quanto por parte de Don Juan Forbes vecino de esta plaza, y socio de la casa de Panton Leslie y comp'a que sigue actualmente bajo su nombre y compania con Rl. permiso, se hizo presente al tribunal de esta intendencia en instancia decretada en veinte y cinco de Septiembre ultimo con que presento un testimonio dado por el Sr. commandante y subdelegado de la Plaza de Mobila, cap'n Don Joaquin Orsono en que hace constar haber rematado en publico almoneda un lienzo de tierra llamado vulgarmente la grand terre, como à siete leguas de destancia de dicha plaza en la orilla oriental del Rio Tensa que perteneció à Don Juan Linder el viejo y por cuenta de su succesion se vendió publicamente para satisfacer varias deudas que dejó pendientes y a que no correspondió su nieto, Don Juan Linder como heredero, desintendiendose de los requerimientos judiciales que se le hicieron; se retiró al territorio Anglo-Americano donde permaneció: por el referido decreto se dio vista al Sr. Fiscal con los testimonios y demas documentos que presento, y por su contestacion de veinte y uno de Octubre siguiente opino à favor de los pretendientes no encontrando reparo alguno que oponer al remate para que se les despachase el titulo en debida forma con arreglo al plano figurativo formado por el ayudante de agrimensor general don Jose Collins, por decreto de veinte y cinco de dicho mes dispuse que el interprete publico Don Andres Fernandez traduxese al idioma castellana el documento de foxas primera que se encuentra en Frances, como lo executo en seis de Noviembre, por el qual se viene en claro conocimiento de que la concesion acordado à Mme. Lusser tiene su antigüedad desde el año de 1738 de quienes parece la obtuvo de Don Luis Duret, cuyos herederos la vendiéron al referido Don Juan Linder, y segun el plano citado corregido por el agrimensor general Don Vicente Sebastian Pintado en la copia que ha sacado de el para que acompañase à este titulo, contiene el referido lienzo de tierra cinco mil y quarenta arpanes planos medidos con la percha lineal de la ciudad de Paris, de diez y ocho pies lineales, situados en la margen oriental del Rio de Tensa en el parage conocido por el nombre vulgar de la grand Terre à siete leguas poco mas ò menos al nord este de la Poblacion de la Mobila, lindando por la parte septentrional y oriental con tierras vacantes, por la meridional con tierras de Mme. Bodin y por la occidental confina con dicho Rio Tensa, como va figurado dicho terreno en el referido plano.

Y en conformidad de las demas diligencias practicadas por el susodicho Don Juan Forbes con parecer y dictamen del Sr. mi Asesor interino provei en veinte de Febrero ultimo un auto cuyo tenor a la letra es como sigue. Vistos y à consequencia de lo declarado en auto de diez y seis de los corrientes proveido en el expediente que por separado se ha seguido sobre no deber obstar la falta de naturalizacion de los individuos de esta casa al correspondiente curso de los de tierras promovidas por ella en que se contengan actos anteriores al recibo de la Rl. orden de treinta y uno de Marzo ultimo y perfectos en terminos que no sea necesario que medie venta u otra contrato equivalente, y constando por el testimonio de foxas primera el legitimo titulo con que paró al dominio particular el terreno comprehendido en el plano de foxas segunda, se declara ne ser realengo, y que sus legitimos poseedores no pueden ne deben ser inquietados en tiempo alguno por este motivo, y en su consequencia se ampara a la casa de Don Juan Forbes y compañia, en su posecion bajo este concepto y sin perjuicio de los reclamos, que puedan competir a otro tercero contra el titulo particular de su adquisicion, sobre cuya legitimidad no puede ni debe conocer ester tribunal, no estendiendose tampoco este amparo à la mitad de la isla de que trata la certificacion de foxas siete por no concurrir igual razon: en cuyos terminos se verificara el despacho del titulo que se pide tomandose las razones acostumbradas y poniendose testimonio en este expediente del citado auto de diez y seis de los corrientes y dictamen à que recayo. Por tanto mando de las facultades anexas a mi ministerio en nombre del Rey Mtro. Sr. Dios le que. Confirmo y ratifico a los referidos Don Juan Forbes y comp'a en la posesion de los cinco mil y quarenta arpanes planos de tierra que se han mencionado bajo los linderos rumbos y distancias que manifiesta el plano figurativo No. 1797 y en su consequencia les ampano en ella para que como propios suyos los posean, cultiven, vendan ò enagenen à su voluntad, sin perjuicio de tercero que mejor derecho tenga, con la calidad y condicion de que han de cumplir con lo dispuesto en la instruccion que sobre tierras formó y publicó la intendencia de la retrocedida provincia de la Luisiana en diez y siete de Julio de mil setecientos noventa y nueve en todo lo que corresponda al local situacion y calidad del terreno.

En fé de lo qual mando despachar el presente firmado de mi mano sellado con él de mis armas y refrendado del infrascrito secretario interino de esta intendencia, en cuya oficina como en la del ministro de Rl. Hacienda quedara registrado y tomara razon. Dado en Panzacola, siete de Marzo, de mil ochocientos siete.

JUAN VENTURA MORALES.

Queda tomada la razon del titulo que antecede, y registrado à foxas cinquenta y cinco y cinquenta y seis del libro destinado à este fin en la secretaria de mi cargo a que remito. Panzacola, diez de Marzo, de mil ochocientos y siete.

FRANCO. GUTIERES, *de Arroyo.*

En la comadunia principal de esta provincia se tomo razon del antecedente titulo à foxas ochenta y seis buelta y ochenta y siete buelta en

el libro destinado à este fin. Panzacola, quarto de Mayo, de de mil ochocientos siete.

JUAN FRANCO. ARNIAUD, *de Courville*.

Land office—Translated and recorded in book A, from page 248 to 252. (Signed,) SAM'L ACRE, *Clerk*.

Translated and recorded pages 88 and 89.

G. SALTONSTALL, *Clerk*.

Translation.

I, Don Vicente Sebastian Pintado, surveyor general of West Florida, do certify, that from the map and certificate of survey, which was made on the first of January, 1800, by Mr. Joseph Collins, who was deputy surveyor under my predecessor, Mr. Charles Laveau Trudeau, for the district of Mobile, it appears that there was measured, meted, and bounded for Mr. John Linder, a tract of land, of five thousand and forty superficial arpents, measured by the lineal perch of the city of Paris, of eighteen lineal feet of the said city, and containing one hundred superficial perches to the arpent, according to the geodetical custom of this province, situated in the said district, on the east bank of the Tensa river, at a place commonly known by the name of *la grande terre*, at seven leagues, more or less, northeast from the town of Mobile; bounded on the north and east by vacant lands, on the south by lands of M'me Bodin, and on the west by the said Tensa river, as will more clearly appear by *by* the foregoing map, which shows the figure of the land; the distances are noted in Paris perches, the bearings, the variation of the compass, the trees and landmarks that serve as boundaries, and the other metes and limits, both natural and artificial, are shown; which map is a copy of the original drawn by the said Collins, and annexed to the memorial of John Forbes, partner of the house of Messrs. Panton, Leslie & Co., established in this place, now known under the name of John Forbes & Co., soliciting the ratification of the title to the said land in favor of the said house, they having purchased it on the 27th day of October, 1803, at a public sale made thereof, on account of the death of the aforesaid Linder, and for the settlement of his affairs, as appears from the documents thereto relating, an authentic copy of which is attached to the said memorial; as also a deed of conveyance, executed in Mobile by Carlos Lalande, on the ninth of December, 1796, in favor of John Linder, whereby the said Lalande sold it, as the husband of Adelaide Durett, and tutor of her minor brothers and sisters, who, it is said, inherited the said land from Louis Duret, their father, and which it appears was granted by the French government to M'me de Lusser, on the twenty-seventh day of May, 1738, according to another document annexed to said memorial. And by virtue of a decree passed on the twentieth of the present month and year, by his excellency, Don Juan Ventura Morales, intendant ad interim of the province, and superintendant general, sub-delegate of the royal domain, judge of questions relating to lands and the royal revenues, whereby it is ordered that the title solicited by Messrs. John

Forbes & Co., be issued to them. I give the present to be attached thereto. In the city of Pensacola, the 26th day of February, 1807.

(Signed,) VICENTE SEB'N PINTADO.

Recorded in survey book VII., pages 20 and 21, No. 1797.

(Signed,) VICENTE SEB'N PINTADO.

Pensacola, 27 February, 1807.

Don Juan Ventura Morales, intendant ad interim, and superintendant, sub-delegate of this province of West Florida, judge of affairs relative to lands and the royal domain, &c.

Whereas, on the part of Mr. John Forbes, an inhabitant of this place, and partner of the house of Panton, Leslie & Co., now, by royal permission, known under the firm of Forbes & Co., a memorial was presented before the tribunal of this intendancy, on the twenty-fifth of September last, wherewith was presented testimony given by Captain Joaquin Orsono, commandant and sub-delegate of the town of Mobile, proving that there was exposed at public vendue, a tract of land commonly called La Grande Terre, about seven leagues distant from the said town, on the east bank of the river Tensa, which belonged to John Linder, sr., and sold at public sale on account of his succession, to satisfy various debts left unpaid, and which were not discharged by his grandson and heir, John Linder, feigning himself ignorant of the judicial requirements thereupon made, withdrew to the Anglo-American territory, where he remained. By the decree aforesaid, the memorial was submitted to the fiscal minister, with the testimony and other documents presented, who, in his report of the twenty-first of October following, declared, that no obstacle opposed itself to the issuing of the title in favor of the petitioners in due form, and in conformity with the plan made by the deputy of the surveyor general, Mr. Joseph Collins.

By a decree of the twenty-fifth of the said month, the public interpreter, Dn. Andres Fernandez, was ordered to translate into the Spanish language, the document on the first page, which was written in French, which he executed on the sixth of November, by which it clearly appears, that the concession granted to Mme. Lusser, extends as far back as the year 1738, from whom it appears to have passed to Mr. Louis Durett, whose heirs sold it to the said John Linder, and, according to the map corrected by the surveyor general, Don Vicente Sebastian Pintado, in the copy which he took from it to accompany this title, the said tract of land contains five thousand and forty superficial arpents, measured by the lineal perch of the city of Paris, of eighteen lineal feet, situated on the east bank of the river Tensa, at a place commonly known by the name of La Grand Terre, at seven leagues, more or less, in a northeasterly direction from the town of Mobile, bounded on the north and east by vacant lands; on the south by lands of Mme. Bodin; and on the west by the river Tensa, as may be seen by the map of the land referred to. And in conformity with the other evidence adduced by the aforesaid John Forbes, with the opinion and advice of my assessor, ad interim, I made, on the twentieth of February last, a decree, the tenor of which is literally as follows:

Whereas, in consequence of the declaration in the decree of the sixteenth of the present month, contained in the memorial, wherefrom it follows, that the want of naturalization of the individuals of said house, ought not to be any obstacle to the granting of the lands solicited by them, wherein are contained acts, anterior to the receipt of the royal order of the thirty-first of March last, and expressed in terms that render it unnecessary that there should be a sale, or any other equivalent contract; and it appearing evident, from the testimony on the first page, that the land represented by the map on the second page, passed by a lawful title to the individual owner, it is declared not to belong to the public domain, and that its lawful owners cannot, nor ought not, to be disturbed at any time by the claims of the crown, and in consequence thereof, the house of John Forbes & Co. is under this opinion protected in their possession, and without prejudice to the claims, which may be advanced by a third person against the particular title desired, from the purchase of said land, of the legality of which this tribunal neither can nor ought to take any cognizance; nor does it, for similar reasons, extend this protection to the half of the island, concerning which the certification on page seven testifies, upon which terms, the titles solicited were issued upon the customary conditions, and upon inserting the testimony in this memorial of the decree of the 16th inst., and the advice whereon it was founded. Wherefore, exercising the powers incident to my office, I do, in the name of the King, our lord, whom God preserve, confirm and ratify the aforesaid Messrs. John Forbes & Co. in the possession of the five thousand and forty arpents of land already mentioned, under the limits, courses, and distances set forth on the map No. 1,797, and consequently I protect them therein, in order that they may, as their own, possess, cultivate, sell, or alienate it at pleasure, without prejudice to any other person who may have a better right, on condition that they fulfil the land instructions, formed and published by the intendancy of the retroceded province of Louisiana, on the 17th of July, 1799, as far as is practicable from the localities, situation, and quality of the land.

In testimony whereof, I have ordered the present to be issued, signed with my hand, and sealed with the seal of my arms, and countersigned by the underwritten secretary, pro tem., of the intendancy, in whose office, as well as that of the fiscal minister of the royal revenues, this title will be recorded.

Given in Pensacola, this seventh day of March, 1807.

Signed, JUAN VENTURA MORALES,
FRAN'CO GUTIEREZ DE ARROYO.

The preceding title is recorded in pages 55 and 56 of the book destined for that purpose, in the office of the secretary, under my care.

Signed, FRANC'CO GUTIEREZ DE ARROYO.

Pensacola, 10th March, 1807.

The preceding title is recorded in the principal chamber of accounts, on pages 86 and 87 of the books destined for that purpose.

Signed, JUAN FRAN'CO ARNIAUD DE COURVILLE.

Pensacola, the 4th May, 1807.

The State of Alabama, Baldwin county:

I, P. C. Byrne, clerk of the circuit court, in and for the county of Baldwin, do hereby certify, the foregoing contains a full and correct transcript of the record, and proceedings, and judgment, in the case of James Inerarity vs. Thomas Byrne.

Given under my hand and seal of office, the 26th day of November, A. D. 1833.

Attest: P. C. BYRNE, [SEAL.]
Clerk C. C. B. C.

The State of Alabama, Baldwin county, to the sheriff of the said county, greeting:

You are hereby commanded to cite Thomas Byrne, if he be found in your county, to be and appear before the judges of the supreme court of the State of Alabama, at the next term of said court, to be holden at the town of Tuscaloosa, on the first Monday of January next, 1834, to shew cause, if any he have, or can, why the judgment recovered by him, the said Thomas Byrne, against James Inerarity, in the circuit court of Baldwin county, at the term of November, 1833, for costs of suit —— trespass to try titles, on which said judgment, a writ of error was sued out by the said James Inerarity, returnable to the aforesaid next term of the supreme court, should not be reversed for error.

Witness, P. C. Byrne, clerk of the said court, the 2d day of December, 1833.

Issued 2d day of December, 1833.

Attest: P. C. BYRNE, *Clerk.*

The State of Alabama:

JAMES INERARITY, vs. THOMAS BYRNE. } 665.—In the supreme court.

And at the January term, 1834, of said supreme court, came the plaintiff in error, by his counsel, and assigned for error the matters contained in the bill of exceptions.

SAM'L ACRE,
Attorney for plaintiff in error.

There is no error in the record.

_____ _____,
Attorney for defendant in error.

And the cause was then continued to the next term of this court.

JAMES INERARITY, vs. THOMAS BYRNE. } 665.—In the supreme court.

This cause was continued from term to term until the June term, 1838, and on the 26th day of June, being a day of the aforesaid term of the supreme court:

Present, the honorable Henry W. Collier, chief justice, and the honorable John J. Osmond, associate justice.—(The honorable Henry Goldthwaite, associate justice, not sitting.)

This day came said parties, by their attorneys, and thereupon, the record aforesaid, and the matters here assigned as error therein, being argued and examined, it seems to the court, that in said judgment of said circuit court, there is no error; therefore, it is by the court here considered, that said judgment be affirmed, and that said Thomas Byrne recover against the said James Inerarity, the costs in this cause accruing in this court, and in said circuit court.

Clerk's office of the supreme court.

I, James B. Wallace, clerk of the supreme court of the State of Alabama, do hereby certify, that *that* the foregoing is a correct transcript of the record and judgment, and also of the Spanish grant mentioned in the bill of exceptions, in the case of James Inerarity vs. Thomas Byrne, the original of which are on file, and remain of record in my office.

In testimony whereof, I have hereunto set my hand and caused the seal of said court to be affixed, at office, in the capitol, this [SEAL.] twentieth day of January, in the year of our Lord one thousand eight hundred and forty-three.

JAMES B. WALLACE,
Clerk of the supreme court, Alabama.